

REMARKS

Claims 9-17 remain pending in this application. New claim 17 has been added in this response. No new matter has been introduced.

Claims 9, 14 and 15 were rejected under 35 U.S.C. §102(e) as being anticipated by *Yoshida et al.* (US Patent 6,466,562). Claims 10 and 16 were rejected under §103(a) as being unpatentable over *Yoshida et al.* (US Patent 6,466,562). The Applicants respectfully traverse the rejections. Favorable reconsideration is respectfully requested. Claims 12 and 13 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The cited art, alone or in combination, does not disclose not teach all the elements in the present invention. Specifically, *Yoshida* does not disclose “removing the filling data contained in the data stream with the constant data rate, reformatting the useful data contained in the data stream with the constant data rate as a data stream with a variable data rate, and sending the data stream with a variable data rate via a packet-oriented connection of a second communications network” as recited in claim 9 and similarly recited in claim 14.

In the Advisory Action, the Examiner stated that “the claims does [sic] not require the channels to be of a variable rate.” This assertion is clearly wrong, as claims 9, 14 and 17 clearly recite a “data stream with a variable rate via a packet-oriented connection of a second communication network” (see claim 9).

As argued previously, *Yoshida* discloses a system and method where data streams, having a constant data rate, are reformatted into data streams having a second constant data rate (col. 8, lines 7-12). Thus, *Yoshida* is completely silent on reformatting a constant data rate to a variable data rate as recited in the present disclosure. Furthermore, PHS systems, such as the type disclosed in *Yoshida*, only take into consideration data rates that are constant (i.e., half rate or full rate – see col. 1, lines 43-45, 61-67). Regarding the Examiner’s Response to Arguments, the Office Action refers to FIG. 8A-B and col. 8, lines 42-57 to assert that *Yoshida* discloses a variable data rate (see 7/23/04 Office Action pages 4-5). While the Office Action is apparently interpreting the half/full rate data as being “variable”, a closer reading of *Yoshida* shows that the reference does not teach a variable data rate, but rather discloses a channel slot (58, 59) that can receive both half-rate and full-rate data communications from *separately distinct* channels (col.

9, lines 5-18). Thus, the data stream coming from any of the channels (ch.0-ch.7) will be *assigned* a constant rate (i.e., half or full). *In other words, the steps of receiving, removing, reformatting and sending in Yoshida is not taught in the context of "a data stream", but instead combines multiple data streams in separate B channel slots.* Accordingly, there is nothing in *Yoshida* that teaches that any of the channels may be "variable" as to the same data stream.

Furthermore, new claim 17 recites the feature of "processing the remaining useful data, contained in the data stream with the constant data rate, into a format compatible with a data stream with a variable data rate, wherein said variable data rate corresponds to a variable transmission bandwidth available for the subscriber connection." Such a feature is not taught by any of the cited prior art.

For at least these reasons, the Applicants submit that the rejections under 35 U.S.C. §102 and §103 are improper and should be withdrawn. An early Notice of Allowance is earnestly requested.

A petition for a three-month extension of time has been submitted with this response, along with a check in the amount of \$1020. If any fees are due in connection with this application as a whole, the Examiner is authorized to deduct such fees from deposit account no. 02-1818. If such a deduction is made, please indicate the attorney docket number (112740-113) on the account statement.

Respectfully submitted,

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